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# असाधारण EXTRAORDINARY

भाग II—खण्ड 2 PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या ही जाती हैं जिससे कि एह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation

# LOK SABHA

The following Bills were introduced in Lok Sabha on the 4th May, 1979:—

#### BILL NO. 64 OF 1979

A Bill to provide for carrying out of judicial functions and exercise of judicial powers under the Central Excises and Salt Act, 1944, the Customs Act, 1962, the Gold (Control) Act, 1968 and the Foreign Exchange Regulation Act, 1973 by Judicial Tribunals.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Judicial Functions and Powers under Certain Economic Laws Act, 1979.
  - (2) It extends to the whole of India.
  - (3) It shall come into force at once.

2. There shall be constituted a Judicial Tribunal in each Central Excise Collectorate to exercise the powers and carry out the functions of adjudication, appeal, revision and review in respect of matters and offences arising under the provisions of the Central Excises and Salt Act, 1944, the Customs Act, 1962, the Gold (Control) Act, 1968 and the Foreign Exchange Regulation Act, 1973.

Short title, extent and commencement.

Judicial
Tribunals
to exercise
powers
of adjudication,
etc. under
certain
economic
laws.

f 1944. of 1962. of 1968,

of 1973.

Powers and functions of Judicial Tribunals. 3. The powers and functions of a Judicial Tribunal in the matter of adjudication, appeal, revision and review shall be the same, until amended by Parliament by law, as are provided therefor under the provisions of the aforesaid Acts, as if the Judicial Tribunals had taken the place of officers or authorities provided for under those Acts.

Personnel of Judicial Tribunals, etc. 4. The Central Government shall, by Rules, determine the number of personnel to be appointed from judicial services to form Judicial Tribunals and there shall be separate Tribunals for adjudication, appeal, revision and review, as may be necessary, to carry out the judicial functions and exercise of powers as provided under the aforesaid Acts.

Control of the Ministry of Law. 5. The Judicial Tribunals shall function under the direct control of the Union Ministry of Law in accordance with the rules framed by that Ministry in this regard.

Departmental officers, etc. to cease to exercise powers of adjudication, etc 6. From the date of the commencement of this Act, all departmental officers or authorities or the Central Government shall cease to exercise powers and carry out functions of adjudication, appeal, revision and review under the aforesaid Acts.

Power to make rules.

- 7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule shall not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

# STATEMENT OF OBJECTS AND REASONS

The State is committed to separation of judiciary from executive. It is all the more necessary for the implementation of the economic laws. Past experience shows that all the time there was great misuse of power and function of adjudication, appeal, revision and review exercisable under the provisions of the Central Excises and Salt Act, 1944, the Customs Act, 1962, the Gold (Control) Act, 1968 and the Fereign Exchange Regulation Act, 1973 by departmental officers under the control and directions of senior departmental officers. From time to time several taxation committees strongly recommended for Judicial Tribunals for exercise of such powers.

Regarding the misuse of power and authority by departmental officers, a reference can be made to the observations made by the Chairman of the Committee on Public Undertakings (1978-79) in the Introduction to the 16th Report of the Committee presented to Lok Sabha on 30-8-1978.

Power is capable of being misused, particularly when, without proper safeguards, it is exercised by the same set of officers.

The Hon'ble Finance Minister has rightly taken the bold decision in exempting unmanufactured tobacco from excise duty and control to give relief to a million tobacco growers and dealers and all classes of people share his view that the levy was vexatious, a legacy of the celonial era and this is most welcoming. Similarly, keeping in view the large scale corruption and legalised hooliganism prevailing under departmental adjudication, appeals and revision, this is all the more necessary that there should be Judicial Tribunals to carry out the judicial functions under the economic laws to save people from day to day loss, injury and harassment. There is no dearth of specific cases of corruption, misuse of power and authority, legalised hooliganism under the garb of these laws. This type of working might be well and good under colonial rule, but so far the rule of law under democratic rule is concerned, there is no place for such powers and functions against the very principle of rule of law, and sooner the better this is taken away.

New Delhi; March 8, 1979. MANOHAR LAL

# FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for constitution of a Judicial Tribunal in each Central Excise Collectorate. Under clause 4, personnel from judicial services shall be appointed to form Judicial Tribunals. Recurring expenditure would, therefore, be involved from the Consolidated Fund of India on account of salary and allowances of the personnel of these Tribunals as also the staff that would be required for the Tribunals. Since the number of the personnel required to form Judicial Tribunals would be determined by the Central Government in accordance with rules to be framed by that Government in this respect, it is not possible to give an estimate of the recurring or non-recurring expenditure at this stage.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to frame rules to carry out the purposes of the Bill. Clauses 4 and 5, in particular, provide for determining by rules the number of personnel to be appointed to Judicial Tribunals from judicial services and for control of the functioning of the Tribunals by the Ministry of Law of the Central Government in accordance with rules. As these are matters of procedure and detail, the delegation of legislative power is of a normal character.

# BILL No. 48 of 1979

A Bill to provide for the establishment of the State of Goa, Daman and Din and for matters connected therewith.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

# PART I

# PRELIMINARY

Short title.

Defini-

tions.

- 1. This Act may be called the State of Goa, Daman and Diu Act, 1979.
- 2. In this Act, unless the context otherwise requires—
- (a) "Administrator" means the administrator appointed by the President under Article 239 of the Constitution;
- (b) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;
  - (c) "article" means an article of the Constitution;
- (d) "Election Commission" means the Election Commission appointed by the President under Article 324;

(e) "existing Union Territory of Goa, Daman and Diu" means the Union Territory of Goa, Daman and Diu as existing immediately before the appointed day;

- (f) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or any part of the existing Union Territory of Goa, Daman and Diu;
- (g) "sitting member", in relation to the House of the People mean; a person who, immediately before the appointed day, is a member of that House;
  - (h) "treasury" includes a sub-treasury.

#### PART II

# ESTABLISHMENT OF THE STATE OF GOA, DAMAN AND DIU

3. On and from the appointed day, there shall be established a new State, to be known as the State of Goa, Daman and Diu, comprising the territories which immediately before that day were comprised in the existing Union Territory of Goa, Daman and Diu.

Establishment of State of Goa, Daman and Diu.

- 4. On and from the appointed day, in the First Schedule to the Constitution,—
  - (a) under the heading "I. THE STATES", after entry 21, the following entry shall be inserted, namely:—
    - "22. Goa, Daman and Diu...The territories specified in section 3 of the State of Goa, Daman and Diu Act, 1979".;
    - (b) under the heading "II. UNION TERRITORIES", entry 5 relating to Goa, Daman and Diu shall be omitted and entries 6 to 9 shall be re-numbered as entries 5 to 8 respectively.

#### PART III

#### Representation in the Legislatures

# The Council of States

- 5. As from the appointed day-
- (a) there shall be allotted one seat to the State of Goa, Daman and Diu in the Council of States;
  - (b) in the Fourth Schedule to the Constitution, in the Table-
    - (i) entries 23 to 26 shall be renumbered 24 to 27 respectively;
  - (ii) after entry 22, the following entry shall be inserted namely—
    - "23. Goa, Daman and Diu......1"
  - (iii) at the end, for the figures "232", the figures "233" shall be substituted.

of Goa, Daman and Diu. Amendment of First Schedule

to the Consti-

tution.

Representation in Council of States Election to fill the seat allotted to the State of Goa, Daman and Diu.

Repre-

senta-

tion in the

House

of the People. 6. As soon as may be after the appointed day, there shall be held an election to fill the seat allotted to the State of Goa, Daman and Diu in the Council of States.

# The House of the People

- 7. On and from the appointed day,-
- (a) in the First Schedule to the Representation of the People Act, 1950,—

43 of 1950.

- (i) under the heading "I STATES",-
- (a) entries 4 to 22 shall be renumbered as entries "5 to 23" respectively;
- (b) after entry 3, the following entry shall be inserted, namely:—
  - "4. Goa, Daman and Diu...2..."
- (ii) under the heading "II. UNION TERRITORIES", entry 6 relating to Goa, Daman and Diu shall be omitted.
- (b) the two parliamentary constituencies of the existing Union territory of Goa, Daman and Diu shall be deemed to be the two Parliamentary Constituencies of the State of Goa, Daman and Diu and the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, shall be construed accordingly.

Provision as to sitting members. 8. Every sitting member of the House of the People representing a constituency which, on the appointed day, by virtue of the provisions of section 7, becomes a constituency of the State of Goa, Daman and Diu shall be deemed to have been elected under sub-clause (a) of clause (1) of article 81 to the House of the People by that constituency.

# The Legislative Assembly

Allocation of seats in the Legislative Assembly.

9. The total number of seats in the Legislative Assembly of the State of Goa, Daman and Diu, to be constituted at any time after the appointed day, to be filled by persons chosen by direct election from territorial constituencies shall be sixty.

Amendment to Second Schedule to Act 43 of 1950.

- 10. (1) In the Second Schedule to the Representation of the People Act, 1950—
  - (i) under the heading "I. STATES",—
  - (a) entries 4 to 22 shall be renumbered as entries "5 to 23" respectively;
  - (b) after entry 3, the following entry shall be inserted, namely:—
    - "4. Goa, Daman and Diu...60..."
  - (ii) Under the heading "II. UNION TERRITORIES", entry 2 relating to Goa, Daman and Diu shall be omitted.

- (2) The amendments made by clause (a) and (b) of sub-section (1) shall have effect in relation to the Legislative Assembly of the State of Goa, Daman and Diu to be constituted at any time after the appointed day,
- 11. The Election Commission shall distribute, whether before or after the appointed day, the seats assigned to the Legislative Assembly of the State of Goa, Daman and Diu under section 9 to single member territorial constituencies and delimit them on the basis of the latest census figures having regard to the provisions of the Constitution and to the following provisions:-

tation of constituencies.

- (a) all constituencies shall, so far as practicable, be geographically compact areas and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and
- (b) every assembly constituency shall be so delimited as to fall only within one parliamentary constituency.
- 12. The Rules of procedure and conduct of Business of the Legislative Rules of Assembly of the existing Union territory of Goa, Daman and Diu as in force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of the State of Goa, Daman and Diu, subject to such modifications and adaptations as may be made therein by the Governor ofthat State.

# PART IV

# HIGH COURT

13. (1) On and from the appointed day, there shall be a High Court High for the State of Goa, Daman and Diu (hereinafter referred to as the High Court of Goa, Daman and Diu);

for Goa, Daman and Diu.

- (2) The principal scat of the High Court shall be at Panaii.
- 14. (1) On and from the appointed day, the Court of the Judicial Commissioner for Goa, Daman and Diu shall cease to function and hereby abolished.
- (2) Nothing in sub-section (1) shall prejudice or affect the continued operation of any notice served, injunction issued, direction given or proreedings taken before the appointed day by the Court abolished by that sub-section, under powers then conferred upon that court.
- Abolition of Court. of Judicial Commissioner for Goa, Daman and Diu.
- 15. (1) All proceedings pending in the Court of the Judicial Commissioner for Goa, Daman and Diu immediately before the appointed day shall, from such day, stand transferred to the High Court of Goa, Daman and Diu.
- (2) Every proceeding transferred under sub-section (1) shall be disposed of by the High Court of Gos. Daman and Diu as if such proceeding was entertained by that High Court.
- (3) Any order made before the appointed day by the Court of the Judicial Commissioner for Goa, Daman and Dig shall, for all purposes,

Transfer of proceedings from the Court of Judicla1 Commissioner to the High Court

have effect not only as an order of that Court but also as an order of the High Court of Goa, Daman and Diu.

Right to appear or to act in proceedings transferred from the Court of Judicial Commissioner to the High Court

16. Any person who, immediately before the appointed day, is an advocate entitled to practice in the Court of the Judicial Commissioner for Goa, Daman and Diu and was authorised to appear or to act in any proceedings transferred from the said Court of the Judicial Commissioner to the High Court of Goa, Daman and Diu under section 15, shall have the right to appear or to act, as the case may be, in that High Court in relation to those proceedings.

Savings.

17. Nothing in this part shall affect the application to the High Court of Goa, Daman and Diu of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

# PART V

# AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Authorisation of expenditure pending its sanction by Legislative Assembly.

Reports

relating

accounts

to the

of the

Union territory

of Goa, Daman

and Diu.

existing

18. (1) The President may, at any time before the appointed day, authorise by order such expenditure from the Consolidated Fund of the State of Goa, Daman and Diu as he deems necessary for a period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislative Assembly of the State of Goa, Daman and Diu;

Provided that the Governor of Goa, Daman and Diu may, after the appointed day, authorise by order such further expenditure as he deems necessary from the Consolidated Fund of the State of Goa, Daman and Diu for any period not extending beyond this said period of six months.

- (2) The President or, as the case may be, the Governor of Goa, Daman and Diu shall make separate orders under sub-section (1) in respect of periods falling in different financial years.
- 19. (1) The reports of the Comptroller and Auditor General of India referred to in section 49 of the Government of Union Territories Act, 1963, relating to the accounts of the existing Union Territory of Goa, Daman and Diu in respect of any period prior to the appointed day, shall be submitted to the Governor of Goa, Daman and Diu who shall cause them to be laid before the Legislative Assembly of the State.

(2) The Governor may, by order,-

(a) declare any expenditure incurred out of the Consolidated Fund of the existing Union territory of Goa, Daman and Diu on any service in respect of any period prior to the appointed day during

**20** of 1963.

any financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in subsection (1) to have been duly authorised, and

- (b) provide for any action to be taken on any matter arising out of the said reports.
- 20. The allowances and privileges of the Governor of Goa, Daman and Diu shall, until provision in that behalf is made by Parliament by law under clause (3) of article 158, be such as the President may, by order, determine.

Allowances and privileges of Governor of Goa, Daman and Diu.

Distribution of revenues.

21. The President, shall, by order, determine the grants-in-aid of the revenue of the State of Goa, Daman and Diu and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provision of the Union Duties of Excise (Distribution) Act, 1962 the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Estate Duty (Distribution) Act, 1962, and the Constitution (Distribution) of Revenues Order, 1969 in such manner as he thinks fit.

3 of 1962. 58 of 1957. 9 of 1962. C.O. 87.

#### PART VI

#### ASSETS AND LIABILITIES

22. (1) All such property and assets within the existing Union territory of Goa, Daman and Diu as are held immediately before the appointed day by the Union for purposes of governance of that Union territory shall, on and from that day, pass to the State of Goa, Daman and Diu unless the purposes for which such property and assets are so held are Union purposes:

Property, assets, rights, liabilities, obligations, etc.

Provided that the cash balance in the treasuries in the Union territory of Goa, Daman and Diu before the appointed day shall, as from that day, vest in the State of Goa, Daman and Diu.

- (2) All rights, liabilities and obligations (other than those relatable to, or in connection with, a Union purpose), which are immediately before the appointed day,—
  - (a) the rights, liabilities and obligations of the Central Government arising out of, or in connection with, the governance of the Union territory of Goa, Daman and Diu; or
  - (b) the rights, liabilities and obligations of the Administrator of the existing Union territory of Goa, Daman and Diu in his capacity as such, or of the Government of that Union territory, shall, on and from the appointed day, be the rights, liabilities and obligations of the Government of the State of Goa, Daman and Diu.
  - (3) The right to recover arrears of—
  - (a) any tax or duty being a tax or duty enumerated in the State List in the Seventh Schedule to the Constitution, or
    - (b) any duty referred to in article 268, or

74 of 1956.

- (c) any tax under the Central Sales Tax Act, 1956, which have fallen due in the existing Union territory of Goa, Daman and Diu shall pass to the State of Goa, Daman and Diu.
- (4) The provisions of this section shall not apply to or in relation to,—
- (a) any institution, undertaking or project the expenditure in relation to which is immediately before the appointed day met from out of the Consolidated Fund of India;
- (b) any property which has been placed by the Union at the disposal of the Administration of the existing Union territory of Goa, Daman and Diu subject to the condition that the ownership thereof will continue to yest in the Union.

Explanation—For the purposes of this section—

- (a) "liability" includes liability in respect of any civil deposit, local fund deposit, charitable or other endowment, provident fund account, pension or actionable wrong;
- (b) "Union purposes" means the purposes of Government relatable to any of the matters mentioned in the Union List.

# PART VII

#### Provisions as to Services

23. (1) In this section, the expression "State Cadre",—

- (a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;
- (b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954;
- (c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.
- (2) On and from the appointed day, there shall be constituted for the State of Goa, Daman and Diu a State Cadre of the Indian Administrative Service, a State Cadre of the Indian Police Service and a State Cadre of the Indian Forest Service.
- (3) The initial strength and composition of each of the said State cadres shall be such as the Central Government may, by order, determine before the appointed day.
- (4) Such of the members of each of the said Services borne on the Union territories cadre thereof immediately before the appointed day, as the Central Government may, by order, specify, shall be allocated to the State cadre of Goa, Daman and Diu of the same Service with effect from such date or dates as may be specified in the order.
- (5) Nothing in this section shall be deemed to affect the operation after the appointed day of the All-India Services Act, 1951, or the rules or regulations made thereunder in relation to the State cadre of the said Services referred to in sub-section (2) or sub-section (4) and in relation to the members of those services borne on the State cadre?

61 of 1951.

Provision relating to All-India Services.

Provision

relating to cer-

tain Ser-

vices.

- 24. (1) On and from the appointed day, there shall be constituted for the State of Goa, Daman and Diu the following services, namely:—
  - (a) The Goa, Daman and Diu Administrative Service; and
  - (b) the Goa, Daman and Diu Police Service.
- (2) The initial strength and composition of the cadres of the said Services shall be such as the Administrator of the existing Union territory of Goa, Daman and Diu may, with the approval of the Central Government, by order, determine before the appointed day.
- (3) Subject to the foregoing provision of this section, the rules and regulations applicable to or in relation to the members of the existing Civil Service and the existing Police Service as in force immediately before the appointed day shall, so far as may be, apply respectively to and in relation to the members of the Goa, Daman and Diu Administrative Service and the Goa, Daman and Diu Police Service until altered, repealed, or amended by the competent authority.
- (4) Every member of the Central Health Service who immediately before the appointed day is holding any post in the existing Union territory of Goa, Daman and Diu being a post included in the authorised strength of that service, shall, until otherwise directed by the Central Government, be deemed to be on deputation, on and from the appointed day, to the Government of the State of Goa, Daman and Diu on the same terms and conditions of service as are applicable to him under the Central Health Service Rules, 1963, but without any deputation allowance:

Provided that the period of such deputation shall in no case extend beyond a period of three years from the appointed day.

Explanation: In this sub-section, "Central Health Service" means the Central Health Service constituted under the Central [Health Service Rules, 1963]

25. (1) Every person who immediately before the appointed day is serving in connection with the affairs of the Union under the administrative control of the Administrator of the Union territory of Goa, Daman and Diu shall, unless otherwise directed by an order of the Central Government, be deemed to have been allocated for service as from that day in connection with the affairs of the State of Goa, Daman and Diu:

Provisions
sions
relating to
other
Services.

Provided that no directions shall be issued under this section after the expiry of a period of one year from the appointed day.

- (2) The provisions of this section shall not apply in relation to persons to whom the provisions of sections 23 and 24 apply.
- 26. (1) Nothing in this section or sections 24 and 25 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the State of Goa, Daman and Diu:

Other provisions as to services.

Provided that the conditions of service applicable immediately before the appointed day in the case of any person referred to in section 24 of section 25 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person allocated under section 24 or deemed to have been allocated under section 25 in connection with the administration of the Union territory of Goa, Daman and Diu, shall be deemed to have been rendered in connection with the affairs of the State of Goa, Daman and Diu for the purposes of the rules regulating his conditions of service.

Provisions as to continuance of officers in same posts.

27. Every person who immediately before the appointed day is holding or discharging the duties of any post or office in connection with the administration of the Union territory of Goa, Daman and Diu, shall continue to hold the same post or office in the State of Goa, Daman and Diu and shall be deemed, on and from that day, to have been duly appointed to that post or office by the Government of, or other appropriate authority, in the State of Goa, Daman and Diu:

Provided that nothing in this section shall be deemed to prevent a competent authority on or after the appointed day from passing in relation to such person any order affecting his continuance in such post or office.

Advisory Committees.

- 28. The Central Government may, be order, establish one or more Advisory Committees for the purpose of assisting it in regard to—
  - (a) the discharge of its functions under this part; and
  - (b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this part and the proper consideration of any representations made by such persons.

Power of Central Government to give directions.

29. The Central Government may give such directions to the Government of the State of Goa, Daman and Diu as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part, and the State Government shall comply with such directions.

#### PART VIII

#### LEGAL AND MISCELLANEOUS PROVISIONS

Amendment of article 210, article 239A and article 240.

- ⋄ 30. On and from the appointed day—
  - (a) in the proviso to clause (2) of article 210, for the words "States of Himachal Pradesh, Manipur, Meghalaya and Tripura", the words "States of Goa, Daman and Diu, Himachal Pradesh, Manipur, Meghalaya and Tripura" shall be substituted.
  - (b) in clause (1) of article 239A and in clause (1) of article 240, the words "Goa, Daman and Diu" shall be omitted.
- Amendment of Act 20 of 1963.
- 31. On and from the appointed day, in the Government of Union Territories Act, 1963, in clause (h) of sub-section (1) of section 2, the words "Goa, Daman and Diu" shall be omitted.

Continuanceof existing laws and their adapta-

tion.

- 32. (1) All laws in force, immediately before the appointed day, in the existing Union territory of Goa, Daman and Diu shall continue to be in force in the State of Goa, Daman and Diu until altered, repealed or amended by a competent Legislature or other competent authority.
- (2) For the purpose of facilitating the application in relation to the State of Goa, Daman and Diu of any law made before the appointed day, the appropriate Government may, within two years from that day,

by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression "appropriate Government" means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government; and as respects any other law, the Government of the State of Goa, Daman and Diu.

33. Notwithstanding that no provision or insufficient provision has been made under section 32 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Goa, Daman and Diu, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

Power to Construe laws.

34. All courts and tribunals and all authorities discharging lawful functions throughout the existing Union territory of Goa, Daman and Diu or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority, continue to exercise their respective functions.

Provisions as to continuance of Courts, etc.

35. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law.

Effect of provisions of Act inconsistent with other laws.

36. (1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

Power to remove difficulties

- (2) Every order made under this section shall be laid before each House of Parliament.
- 37. (1) The Central Government may, by notification in the official Gazette, make rules to give effect to the provisions of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in Session for a total period of thirty days which may be comprised in one Session or in two successive Sessions, and if, before the expiry of the Session in which it is so laid or the Session immediately following, both Houses agree in making any modification in the rule or both Houses

agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

# STATEMENT OF OBJECTS AND REASONS

The aspiration of the people of Goa, Daman and Diu has all along been to attain full Statehood within the Union. On March 26, 1971, the Union Territory's Legislative Assembly passed a resolution urging the Government to move the Central Government to bring forward immediately necessary legislation to grant Statehood to Goa, Daman and Diu. Most of the Union territories have been granted Statehood. It is in the fitness of things, therefore, that the wishes of the people of Goa, Daman and Diu for Statehood are also fulfilled. The Bill seeks to achieve this object.

NEW DELHI; The 26th July, 1978. EDUARDO FALEIRO

# PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117(1) AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. S.16017|1|78-SR, dated March 22, 1979 from Shri Dhanik Lal Mandal, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha].

The President having been informed of the subject matter of the Bill (by Shri Eduardo Faleiro, M.P.) to provide for the establishment of the State of Goa, Daman and Diu and for matters connected therewith, recommends the introduction of the Bill in the Lok Sabha under articles 117(1) and 274(1) of the Constitution.

# FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the allotment of one seat to the new State in the Council of States. This will involve extra recurring expenditure of about rupees thirty thousand on account of salary, allowances, etc. of a member.

- 2. Clause 11 of the Bill seeks to empower the Election Commission to delimit the Assembly Constituencies of the new State of Goa, Daman and Diu. For this purpose a non-recurring expenditure of about rupees ten thousand will have to be incurred from the Consolidated Fund of India.
- 3. Clause 13 of the Bill provides for a High Court. Pensions to High Court Judges will be an expenditure charged on the Consolidated Fund of India.
- 4. Clause 28 of the Bill seeks to empower the Central Government to establish one or more Advisory Committees for the purpose of assisting it in regard to the discharge of its functions in relation to allocation of the members of services and the ensuring of fair and equitable treatment to all persons affected. An expenditure of about rupees five thousand may have to be incurred from the Consolidated Fund of India on account of travelling allowance of Members of these Committees.
- 5. As a State, Goa, Daman and Diu will be entitled to a share in the Central taxes which will be determined in pursuance of clause 21 of the Bill. This would augment the State's revenue, but a gap between the revenue receipts and expenditure on revenue account may still be left. In the past, the Finance Commission had taken note of such deficits and recommended suitable grants-in-aid under article 275(1) of the Constitution for various States. It is, therefore, proposed to provide for such quantum of grants-in-aid to the new State as may be considered necessary until the recommendations of the next Finance Commission become available, by suitably amending the provisions of Constitution (Distribution of Revenues) Order, 1969, in exercise of the powers sought to be taken under clause 21 of the Bill.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill enables the President to determine by order the allowances and privileges of the Governor of the new State.

Clause 21 of the Bill empowers the President to determine by order the grants-in-aid to the new State and its share of Central Taxes and amend for that purpose the relevant provisions of the Union Duties of Excise (Distribution) Act, 1962, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) Order, 1969.

Clause 32 of the Bill provides for the adaptation of existing laws to facilitate their application to the new State. The power to adapt is being conferred on the Central Government in the case of laws relating to matters enumerated in the Union List in the Seventh Schedule to the Constitution and on the Government of the new State in the case of all other laws.

Clause 37 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill when enacted. The rules, if any, will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

The aforementioned provisions are mainly of a consequential nature or pertain to matters of detail and procedure. As such, the proposed delegation of legislative powers is of a normal character.

# BILL No. 60 of 1979

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title and commencement.

- 1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 1979.
  - (2) It shall come into force at once.

Amendment of rule 20 of Order V. 2. In the First Schedule, in sub-rule (1A) of rule 20 of the Code of Civil Procedure, 1908, after the word "daily", the words "or weekly", 5 of 1908. shall be inserted.

# STATEMENT OF OBJECTS AND REASONS

It is a well known fact that cost of litigation in the present times is quite heavy. The Civil Procedure Code (Amendment) Act, 1976 (104 of 1976) added rule 20 (1A) to Order V of the main Code mentioning therein that substituted service by advertisement of court notice is to be done in a daily newspaper. It is common knowledge that the charges of the daily newspapers for publishing court notices are exceedingly high ranging from Rs. 100 to Rs. 200. Such an expense adds to the burden of a litigant. It is desirable that such Court notices should also be allowed to be published in weekly newspapers and the list of such weekly or daily newspapers can be approved by each High Court. The charges for publishing a court notice in a weekly newspaper are generally on the low side and would not increase cost of litigation. At the same time the purpose of effecting substituted service by advertisement in a newspaper also stands achieved. It is with this object in view that the provision for effecting advertisement in weekly newspapers should be introduced.

Hence the Bill.

New Delhi; March 19, 1979. O. P. TYAGI

#### BILL No. 61 of 1979

A Bill to provide for raising of existing maximum age limit for entry into Government service and for payment of unemployment allowance.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Government Service (Age Limit) and Unemployment Allowance Act, 1979.

Maximum age
limit
for
appointments
to serveces and
posts in
Govern-

- 2. (1) The maximum age limit for appointments to Government services and posts shall be two years lower than the age of retirement from such service or post.
- (2) All laws in force immediately before the commencement of this Act, in so far as they are inconsistent with the provisions of sub-section (1) of this section, shall, to the extent of such inconsistency, be void.

Payment of unemployment allowance.

ment.

3. Every unemployed person of the age of 18 years or above shall be paid an unemployment allowance to be determined by the Government.

#### STATEMENT OF OBJECTS AND REASONS

The number of unemployed persons in India was assessed at two crores and sixty lakhs in March, 1978 according to the draft Sixth Five Year Plan. But these are Government statistics and the actual number of unemployed may be more than five crores. By and large the number of unemployed persons is going up by sixty five to seventy lakhs every year and their number will touch the figure of ten crores in the next five years.

The frustration and discontent in the youths in India caused by unemployment may not be found anywhere else. Today thousand of frustrated youths of the country are treading on wrong path. The failure of non-violent means culminates in violence.

Today the youth is groping in the dark. The youngmen nearing the maximum age limit for entering into service count their days like a convict awaiting execution. He knocks at the doors of the political leaders as well as of the officers. He takes recourse to offering money for gaining employment and when in spite of it he fails to get employment, he is disappointed. Many such youths neglected by the society and their families even commit suicide.

It is the moral obligation of a popular Government to grant right of work to its citizens, failing which the maximum age limit for appointments in Government service should be raised to an age two years lower than the age of retirement. When one can continue in Government service till lifty-five or fifty-eight years of age, why a person cannot enter Government service at fifty-three years.

Government should also pay unemployment allowance to all unemployed persons above eighteen year of age. In a number of countries such as U.S.S.R., China, Iraq, Hungary, Japan, etc. right to work has been provided under the Constitution, and unemployment allowance is paid in more than thirty-four countries.

It is hoped that this Bill will serve as beacon light for the youths facing a dark future.

Hence this Bill.

New Delhi; March 27, 1979. RAM VILAS PASWAN

# FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for payment of unemployment allowance to every unemployed person of the age of 18 years or above. Since expenditure on payment of unemployment allowance to unemployed persons in Union territories will be met by the Central Government as also grants-in-aid will have to be made to the State Governments on this account, a recurring expenditure of about Rs. 1000 crores is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be incurred from the Consolidated Fund of India.

# BILL No. 62 of 1979

A Bill to provide for prevention of violent Bundhs, Morchas, Strikes and Lock-outs.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:--

# CHAPTER 1

# PRELIMINARY

- 1. (1) This Act may be called the Prevention of Violent Bundhs, Morchas, Strikes and Lock-outs Act, 1979.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title, extent and commencement.

Deflnitions.

- 2. In this Act, unless the context otherwise requires,—
- (a) "Bundh" (with its grammatical variations and cognate expressions) means any call or appeal for suspension of normal work by the residents of any local area;
- (b) "local area" means any area with reference to which a call or an appeal for Bundh is made and includes (i) any city, (ii) any town, (iii) any village, (iv) any group of cities, towns or villages, (v) the area of any State or (vi) the area of any Union territory in India;
- (c) "Magistrate" means a magistrate appointed under the Criminal Procedure Code, 1973.

2 of 1974.

- (d) "Morcha" (with its grammatical variations and cognate expressions) means any individual or group of individuals merching or walking on any public road, street or a highway with a view to attract attention of public or any Government or any Officer appointed by the Government or an employee or any other person, to any political, economic or social problem or any other matter of public nature;
- (e) "person" includes any individual, group of individuals, any political party, any political or social organisation or any trade union;
- (f) "Strike" means a cessation of work by employees acting in combination or a concerted refusal, or a refusal under a common understanding of the employees to continue to work or accept employment whether such cessation or a concerted refusal or a refusal under common understanding is or is not a consequence of industrial dispute.

#### CHAPTER 2

# BUNDHS

Punishment for Bundhs in contravention of this Act. 3. (1) No person shall give a call or make an appeal for Bundh in contravention of the provisions of section 4 of this Act and any person who contravenes the provisions of that section shall be punished with imprisonment which may extend to six months or a fine which may extend to one thousand rupees or with both.

Conditions for organising a Bundh.

- 4. No person shall give a call or make an appeal for Bundh unless he—
  - (i) gives at least 48 hours' notice to the prescribed authority of his intention to give a call or make an appeal for Bundh;
  - (ii) deposits with the prescribed authority the sum prescribed by the Government;
  - (iii) gives an undertaking in writing to the prescribed authority that he will take reasonable care for prevention of violence and/or destruction of or damage to public or private property;
- (iv) gives details of the local area of the Bundh and the date and the period of the Bundh and such other particulars as may be prescribed.

5. No person during the period of the Bundh shall force any person to take part in such Bundh or prevent such person from doing his normal work and whoever contravenes the provisions of this section shall be punished with imprisonment which may extend to three months or a fine which may extend to five hundred rupees or with both.

Use of force to take part in Bundh.

6. No person during the period of Bundh shall obstruct or make an attempt to obstruct any vehicle or any railway service and whoever contravenes the provisions of this section shall be punished with imprisonment which may extend to three months or a fine which may extend to five hundred rupees or with both.

Obstruction of vehicles or rail-way service etc.

#### CHAPTER 3

#### MORCHAS

7. No person shall organise a Morcha in contravention of the provisions of section 8 of this Act and whoever contravenes the provisions of that section shall be punished with imprisonment which may extend to three months or a fine which may extend to five hundred rupees or with both.

Punishment for Morchas in contravention of this Act.

8. No person shall organise a Morcha unless he-

Conditions for organising Morchas.

- (i) deposits with the prescribed authority the sum prescribed by the Government;
- (ii) gives an undertaking in writing to the prescribed authority that he will take reasonable care for prevention of violence and/or destruction of or damage to public or private property;
- (iii) gives to the prescribed authority the details of the date, the route and the time of the morcha and such other particulars as may be prescribed;
- (iv) gives at least 48 hours' notice to the prescribed authority prior to organising the morcha.

# CHAPTER 4

# STRIKES AND LOCK-OUTS

- 9. No person shall organise a Strike or Lock-out unless he-
- tions for cribed Strike or Lock-out.

Condi-

- (i) deposits with the prescribed authority the sum prescribed by the Government;
- (ii) gives an undertaking in writing to the prescribed authority that he will take reasonable care for prevention of violence and/or destruction of or damage to public or private property;
- (iii) gives at least 48 hours' notice to the prescribed authority prior to organising the Strike or Lock-out.

Punishment for Strike or Lock-out in contravention of this Act.

10. No person shall organise Strike or Lock-out in contravention of the provisions of section 9 of this Act and whoever contravenes the provisions of that section shall be punished with imprisonment which may extend to three months or a fine which may extend to five hundred rupees or with both.

# CHAPTER 5

# MISCELLANEOUS

Forfeiture of deposit in case of violence or damage, etc.

11. If the Bundh, Morcha, Strike or a Lock-out leads to violence or destruction of or damage to public or private property and if the persons organising the Bundh, Morcha, Strike or Lock-out, as the case may be, fails to take reasonabble care for the prevention of violence and/or damage to or destruction of public or private property, the amount deposited under sections 4, 8 or 9 shall, subject to the provisions of section 12, be forfeited.

Permission by Magistrate to forfeit deposit.

- 12. If Bundh, Morcha, Strike or Lock-out leads to violence and/or desetruction of or damage to public or private property, the prescribed authority shall make an application to the Magistrate of the local area for permission to forfeit the amount deposited under sections 4, 8 or 9.
- (2) After receipt of the application made under sub-section (1), the Magistrate shall issue notice to the person concerned and, after hearing the prescribed authority and the person concerned, may grant the application or reject the same.
- (3) In deciding the application made under sub-section (1), the Magistrate may follow such procedure as he deems fit.

Refund of deposit.

13. If the amount deposited under sections 4, 8 or 9 is not forfeited under section 11, the same shall be refunded to the person, who deposited it, after the Bundh, Morcha, Strike or Lock-out, as the case may be, is concluded.

Offences under the Act to be cognize ble.

14. An offence under this Act shall be cognizable and shall be tried in accordance with the provisions of Criminal Procedure Code, 1973.

Power to make rules.

- 15. (1) The Central Government may make rules to carry out the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing power, the Central Government may frame rules to provide for all or any of the following matters, namely:—
  - (a) the authority which shall exercise the power of the prescribed authority under this Act;
  - (b) the particulars to be given by the person organising a Bundh, Morcha, Strike or Lock-out;
  - (c) the sum to be deposited with the prescribed authority by the person giving notice of a Bundh, Morcha, Strike or Lock-out.

# STATEMENT OF OBJECTS AND REASONS

The objective of the Bill is to prevent violent Bundhs, Morchas, Strikes and Lock-outs which have caused irreparable damage to the Indian economy. For the last several years, these activities have taken a violent turn with the result that despite all efforts to promote industrial development, Indian economy is not progressing at a rate it should have done. We also have to suffer ever increasing losses of public property due to the violent nature of these activities. Hence, the object of the Bill is to create a favourable climate for all round growth of India's economy.

NEW DELHI:

R. K. AMIN

March 28, 1979.

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# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. In particular, it provides for specifying the prescribed authority, the sums to be deposited and the particulars to be given before organising a Bundh, etc. As these are matters of detail, the delegation of power is of a normal character,

# BILL No. 55 of 1979

A Bill to provide for capital punishment to persons guilty of hijacking on land, in sky or on the sea and their summary trial.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

1. This Act may be called the Anti-Hijacking Act, 1979.

Short title.

2. In this Act, hijacking includes skyjacking, seajacking and any unlawful seizure of an aircraft, motor-vehicle or sea-craft, changing its course of flight, journey or voyage by force, attacking or threatening to attack the lives of persons aboard, or committing other crimes such as putting bombs aboard or threatening in any way to endanger the safety of the flight, journey or voyage.

Definition. Death
penalty
for
hijscking
etc.

3. A person found guilty of committing, abetting, or conspiring an act of hijacking shall be punished with death.

# Summary trial.

- 4. (1) A person accused of hijacking shall be tried in a summary way in the manner to be prescribed for summary trial in such cases.
- (2) The summary trial under sub-section (1) shall be completed within three months.

# Constitution of trial court.

- 5. The cases of hijacking shall be tried by a trial court, constituted for the purpose, which shall consist of the following, namely:—
  - (a) the Chief Justice of India who shall be the Chairman of the trial court; and
  - (b) Chief Justices of four High Courts who shall be appointed on the trial court by the Chief Justice of India.

# No appeal to lie.

6. No appeal shall lie from the judgment of the trial court.

# Power to frame rules.

- 7. (1) The Central Government shall, in consultation with the Chief Justice of India, frame rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for the manner and procedure for a summary trial under this Act.

# STATEMENT OF OBJECTS AND REASONS

In India and all over the world, hijacking, skyjacking and seajacking are mostly a political crime problem. These crimes are inspired by politics and are the result of a dirty alliance between unscrupulous politicians and the criminal world.

Death penalty should be there for such a crime because it may involve the deaths of hundreds of innocent passengers, flying crew and is open to high political blackmail and may also lead to destruction of property worth crores of rupees. It may also lead to destabilisation of social and political structure. This sort of crime is generally committed with a political motive by terrorists and frustrated politicians. Therefore, it is essential that this crime is dealt with separately under a separate law by a special trial court which would ensure speedy trial in such cases of heinous crime.

Hence this Bill.

New Delhi; March 29, 1979. YADVENDRA DUTT.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to frame rules, in consultation with the Chief Justice of India, to carry out the purposes of the Bill, particularly to prescribe the manner for summary trials in cases of hijacking. As the rules will relate to matters of procedure in detail, the delegation of legislative power is of a normal character.

# BILL No. 54 of 1979

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1979.

Short title.

2 of 1974.

2. Section 109 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), shall be omitted.

Omission of section 109.

3. Section 110 of the principal Act, shall be omitted.

Omission of section 110

# STATEMENT OF OBJECTS AND REASONS

It is evident from the recent decisions of the Supreme Court and High Courts that the number of under trial prisoners in the country has increased considerably and most of such prisoners are under trial under sections 109 and 110 of the Code of Criminal Procedure, 1973. Cases under sections 109 and 110 of the Code are instituted, in most of the cases, against only those who have no means of livelihood. About 65 per cent of the people in our country have been living below the poverty line and there is unemployment on a large scale in the country.

Unless the poverty is removed and work is provided to all, it is not proper to have sections like 109 and 110 on the statute book.

It is, therefore, proper that these sections are omitted from the Code of Criminal Procedure, 1973.

Hence this Bill.

New Delhi; March 30, 1979. VINAYAK PRASAD YADAV

# Bill No. 59 of 1979

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1979.

Short title.

2. For article 341 of the Constitution, the following article shall be substituted, namely:—

Substitution of article 341.

- "341. (1) The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes.
- (2) The castes, races or tribes or parts of or groups within castes, races or tribes, specified by notification issued under clause (1), shall, for the purposes of this Constitution, be deemed to be Scheduled Castes for the whole of India.
- (3) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.".

Scheduled Castes

# STATEMENT OF OBJECTS AND REASONS

There is a separate list of the members of the Scheduled Castes and Scheduled Tribes for each State. A particular caste has been included in the list of Scheduled Castes in one State and the same caste is not included in the list of Scheduled Castes in another State, even though persons belonging to that caste in both the States are equally backward from social, economic and educational points of view. in the same State, a caste has been included in the list of Scheduled Castes in one district but not in the other district. What is more astonishing is that if any member of a Scheduled Caste applies for any post in a State other than his own State or, say, in Delhi on account of poverty and if his caste has not been included in the list of Scheduled Castes in that State or Union territory, he is deprived of all the facilities available to Scheduled Castes. The argument advanced by the Government is that the inclusion of a caste in the list of Scheduled Castes depends upon the social position of that caste in their State. But this argument advanced by the Government does not carry much weight when seen in practice.

The Bill, therefore, seeks to amend the Constitution to provide that a Caste included in the list of Scheduled Castes in one State or Union territory shall be deemed to be Scheduled Caste for the whole of India.

New Delhi; April 4, 1979. RAM VILAS PASWAN

# BILL No. 58 of 1979

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

- 1. This Act may be called the Constitution (Amendment) Act, 1979.
- 2. For article 335 of the Constitution, the following article shall be substituted, namely:—

"335. (1) The claims of the member of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

- (2) For the purposes of clause (1), provision shall be made for the reservation of appointments or posts in connection with the affairs of the Union or of a State in favour of Scheduled Castes and Scheduled Tribes.
- (3) The percentage of appointments or posts reserved for Scheduled Castes or Scheduled Tribes under clause (2) shall bear, as nearly as may be, the same proportion to the total number of

Short title,
Substitution of article 335.

Claims of and reservation for Scheduled Castes and Scheduled Tribes in services and posts. appointment or posts as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, bears to the total population as recorded in the latest census.

(4) The reservation under this article shall continue to be made till the representation of Scheduled Castes and Scheduled Tribes in services under the State reaches the level of percentage as specified in clause (3)."

# STATEMENT OF OBJECTS AND REASONS

The main aim of providing for reservation for Scheduled Castes and Scheduled Tribes in Government posts and services was to bring these castes, which were socially, economically and educationally backward, at par with other sections of our society. In order to achieve this end, unless special opportunities are provided to them, they will remain backward in every sphere of life.

What to speak of other spheres of life, their representation in Government services is still insignificant even after 31 years of independence. The population of Scheduled Castes and Scheduled Tribes works out to 25 per cent of our total population but their representation in class I, class II and class III posts in Government services is insignificant. Even the quota for class IV posts has not yet been completed. As a result, one-fourth of our population comprising Harijans and Adivasis has been isolated from the main national stream. Even in a poor family, other members skip their meals in order to procure fruits etc. for a member of their family who has fallen sick. One-fourth of our population has been suffering for centuries. We have not been able to uplift these castes to the desired extent because of bureaucracy and lack of liberal attitude. Even then we find that these persons, who have been exploited for centuries, have awakened with a ray of hope and they are now trying to associate themselves with the main stream of the country. As such, if the provision for reservation is withdrawn and they are deprived of the facilities available to them, it will not only amount to injustice to them but would also not be helpful in making our country strong.

Thus the Bill seeks to provide for the continuation of facilities at present available to the Scheduled Castes and Scheduled Tribes in Government services.

New Delhi; April 4, 1979. RAM VILAS PASWAN

# BILL No. 63 of 1979

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title, extent and commencement.

- 1. (1) This Act may be called the Companies (Amendment) Act, 1979.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of section 275. 2. For section 275 of the Companies Act, 1956 (hereinafter referred 1 of 1956, to as the principal Act), the following section shall be substituted, namely:—

No person to be a director of more than ten companies.

"275. No person shall, save as otherwise provided in section 276, hold office at the same time as director in more than ten companies.".

3. For section 276 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 276.

"276. (1) Any person holding office as director in more than ten companies shall, within two months from the date of commencement of the Companies (Amendment) Act, 1979,—

Choice to be made by director of more than ten companies.

- (a) choose not more than ten of those companies, as companies in which he wishes to continue to hold the office of director;
  - (b) resign his office as director in the other companies; and
- (c) intimate the choice made by him under clause (a) to each of the companies in which he was holding the office of director to the Registrar having jurisdiction in respect of each such company, and also to the Central Government.
- (2) Any resignation made in pursuance of clause (b) of subsection (1) shall become effective immediately on the despatch thereof to the company concerned.
  - (3) No such person shall act as director—
  - (a) in more than ten companies, after the expiry of two months from the commencement of the Companies (Amendment) Act, 1979; or
  - (b) of any company after despatching the resignation of his office as director thereof, in pursuance of clause (b) of subsection (1).".
- 4. For section 277 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 277.

- "277. (1) Where a person already holding the office of director in ten companies is appointed after the commencement of the Companies (Amendment) Act, 1979, as a director of any other company, the appointment—
  - (a) shall not take effect unless such person has, within fifteen days thereof, effectively vacated his office as director in any of the companies in which he was already a director; and
  - (b) shall become void immediately on the expiry of the fifteen days if he has not, before such expiry, effectively vacated his office as director in any of the other companies aforesaid.
- (2) Where a person already holding the office of director in nine companies or less is appointed, after the commencement of the Companies (Amendment) Act, 1979, as a director of other companies, making the total number of his directorships more than ten, he shall choose the directorships which he wishes to continue to hold or to accept, so that the total number of the directorships, old and new, held by him shall not exceed ten.

Choice by person becoming director of more than ten Companies.

None of the new appointments of director shall take effect until such choice is made; and all the new appointments shall become void if the choice is not made within fifteen days of the day on which the last of them was made.".

Amendment of section 278.

- 5. In section 278 of the principal Act, in sub-section (1),-
  - (i) the following part shall be omitted, namely:-
  - "(a) a private company which is neither a subsidiary nor a holding company of a public company;";
  - (ii) parts (b), (c) and (d) shall be re-numoered as parts (a), (b) and (c) respectively.

# STATEMENT OF OBJECTS AND REASONS

While the avowed aim of the Government is to establish a socialist pattern of society, no effective steps have been taken so far to check the concentration of economic power wielded by big business houses. The existence of the Monopolies and Restrictive Trade Practices Commission for nearly a decade too does not appear to have had any effect on the economic power wielded by many dominating industrial houses. In fact, according to statistical reports available for the period 1972 to 1976 the assets of many of these houses registered a considerable increase over the period.

One of the ways in which by business houses control the interests of large number of industrial undertakings is to hold through their family members directorships of several undertakings. The Companies Act, 1956 at present allows a person to function as a director of as many as twenty companies. With the number of directorships that may be held by one person remaining so high, members of the family of a single business house can control the interests of a large number of companies thereby leading to concentration of economic power.

The Bill seeks to reduce this number to ten so as to curb such concentration of economic power.

New Delhu; March 22, 1979. SOUGATA ROY

AVTAR SINGH RIKHY, Secretary.